

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *cg* D.C.
05 JUL 15 PM 4:46

JOHNNY LEE BURROS,

X

Plaintiff,

X

vs.

X

No. 05-2400-M1/V

MADISON COUNTY, et al.,

X

Defendants.

X

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
WD OF TN, MEMPHIS

ORDER TRANSFERRING CASE PURSUANT TO 28 U.S.C. § 1406(a)

Plaintiff Johnny Lee Burross, Tennessee Department of Correction prisoner number 214034, an inmate at the West Tennessee State Penitentiary ("WTSP") in Henning, Tennessee, filed a pro se complaint pursuant to 42 U.S.C. § 1983 on May 26, 2005, along with an inmate trust fund account statement. Because this case is being transferred, the filing fee issue should be addressed by the transferee court.

Twenty-eight U.S.C. § 1391(b) authorizes the commencement of a civil action only in a judicial district

- (1) where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred . . . , or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.

This claim has no connection with the Western Division of this district apart from the fact that the Plaintiff is currently incarcerated within this division, a fact that has no bearing on the

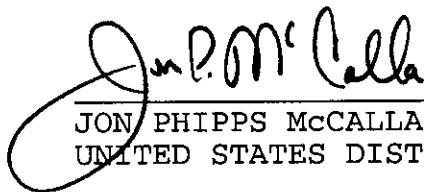
proper venue for this action. All the Defendants can apparently be found in Madison County, and the allegedly wrongful acts occurred in Madison County. Madison County is in the Eastern Division of the Western District of Tennessee. 28 U.S.C. § 123(c)(1). Accordingly, the Complaint asserts no basis for venue in the Western Division of this district.

Twenty-eight U.S.C. § 1406(a) states:

The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

For the reasons stated, this action should have been brought in the Eastern Division of this district. 28 U.S.C. § 123(c)(1). Therefore, it is hereby ORDERED, pursuant to 28 U.S.C. § 1406(a), that this case is TRANSFERRED, forthwith, to the Western District of Tennessee, Eastern Division.

IT IS SO ORDERED this 15 day of July, 2005.



JON PHIPPS McCALLA
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 3 in case 2:05-CV-02400 was distributed by fax, mail, or direct printing on July 18, 2005 to the parties listed.

Johnny L. Burross
WEST TENNESSEE STATE PRISON
P.O. Box 1150
Henning, TN 38041

Honorable Jon McCalla
US DISTRICT COURT